

BILL ANALYSIS

Senate Research Center

S.B. 1047
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State Affairs
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Enrolled

DIGEST AND PURPOSE

Current law does not exempt a state or local officer who is acting in a legislative capacity from being subject to disciplinary action or a sanction, penalty, disability, or liability for that action in connection with the officer's practice of a licensed or regulated profession or occupation. S.B. 1047 provides that a state or local official who takes legislative action is acting within that person's legislative capacity and may not be subject to disciplinary action or otherwise punished for such an action taken connection with the officer's practice of a licensed or regulated profession or occupation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 572, Government Code, by adding Section 572.059, as follows:

Sec. 572.059. INDEPENDENCE OF STATE AND LOCAL OFFICERS ACTING IN LEGISLATIVE CAPACITY. (a) Defines "legislative measure" for the purposes of this section.

- (b) Provides that a measure that is applicable to a class or subset of persons or matters that is defined in general terms without naming the particular persons or matters is a measure of general application, for the purposes of Subsection (a).
- (c) Prohibits a state or local officer, whether elected or appointed, including a member of the governing body of a school district or other political subdivision of the state, in order to protect the independence of state and local officers acting in a legislative capacity, from being subject to disciplinary action or a sanction, penalty, disability, or liability for:

- (1) an action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
- (2) proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure.
- (3) the effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
- (4) a certain breach of duty in connection with the member's practice of or employment in a licensed or regulated profession or occupation.

SECTION 2. Amends Section 25.051, Local Government Code, as follows:

- (a) Created from existing text.
- (b) Provides that this chapter does not limit the authority of the governing body of a general-law municipality to appoint and prescribe the powers and duties of a municipal officer or employee under Chapter 22, 23, or 24.

SECTION 3. Amends Chapter 171, Local Government Code, by adding Section 171.010, as follows:

Sec. 171.010. PRACTICE OF LAW. (a) Provides that, for purposes of this chapter, a county judge or county commissioner engaged in the private practice of law has a substantial interest in a business entity if the official has entered a court appearance or signed court pleadings in a matter relating to that business entity.

(b) Requires a county judge or county commissioner that has a substantial interest in a business entity as described by Subsection (a) to comply with this chapter.

(c) Prohibits a judge of a constitutional county court from entering a court appearance or signing court pleadings as an attorney in any matter before the court over which the judge presides, or any court in this state over which the judge's court exercises appellate jurisdiction.

(d) Authorizes a county judge or commissioner, upon compliance with this chapter, to practice law in the courts located in the county where the county judge or commissioner serves.

SECTION 4. Effective date: upon passage or September 1, 2003.